

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed January 9, 2007. Upon entry of the amendments in this response, claims 1 – 8 and 22 – 26 remain pending. In particular, Applicant amends claims 1 and 2 and adds 22 – 26. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **I. Claim Statuses**

Applicant notes that, in the previous response to restriction requirement, claims 1 – 8 were labeled as “Previously Presented,” despite having never been amended. As indicated above, Applicant now amends claims 1 and 2 and properly indicates these claims as “Currently Amended.” Claims 3 – 8, which remain in their original form, are now properly labeled as “Original.”

### **II. Restriction Requirement**

The Office Action Summary indicates that claims 1 – 8 are subject to a restriction requirement. However, nowhere else in the Office Action is there any indication of a restriction requirement currently being asserted. Applicant is proceeding as if this is a clerical error and respectfully requests that, if a restriction requirement is issued, indication of the restriction requirement be made in the Detailed Action section of the Office Action.

### **III. Drawings**

The Office Action Summary does not indicate whether the drawings are rejected or accepted. Applicant respectfully submits that the drawings are in condition for acceptance and request indication of acceptance.

**IV. Rejections Under 35 U.S.C. §112, Second Paragraph**

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More specifically, the Office Action alleges that it is unclear how the attractant is “configured”... and how the trigger is “configured.” The Office Action additionally alleges that it is unclear how the attractant is configured to dissolve. Applicant amends claim 1, as indicated above, and submits that claim 1, as amended, is allowable in view of 35 U.S.C. §112.

The Office Action additionally indicates that claim 2 stands rejected under 35 U.S.C. §112, second paragraph, as allegedly failing to comply with the written description requirement. More specifically, the Office Action submits that it is allegedly unclear what are the meets and bounds of protection sought by the “energy release” terminology. Applicants respectfully traverse this rejection, but amend claim 2, thereby rendering this issue moot.

**V. Rejections Under 35 U.S.C. §112, First Paragraph**

The Office Action additionally indicates that claims 1 – 8 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. More specifically, the Office Action alleges that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. More specifically, the Office Action alleges that the specification identifies “limited” subduing agents that are not further defined or identified. The Office Action further alleges that the specification does not explain how energy release leads to death.

Applicant respectfully traverses this rejection. More specifically, with regard to the assertion that the written description fails to adequately describe subduing agents, the written description includes a plurality of subduing agents and descriptions corresponding to these

subduing agents. As a nonlimiting example, see paragraphs [0025] – [0031]. As another nonlimiting example, see FIGS. 4 – 8. As is clearly evident in these paragraphs and drawings, subduing agents are adequately described to support the currently pending claims. For at least this reason, claims 1 – 8 are allowable in view of 35 U.S.C. §112, first paragraph.

With regard to the assertion that the specification does not explain how energy release leads to death, Applicant presumes the Office Action is referring to claim 2. Applicant respectfully traverses this rejection, but as indicated above, amends claim 2. Applicant respectfully submits that this amendment renders this rejection moot.

## VI. Rejections Under 35 U.S.C. §102

### A. Claim 1 is Allowable Over *Fajt*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 5,674,518 (“*Fajt*”). Applicant respectfully traverses this rejection on the grounds that *Fajt* does not disclose, teach, or suggest all of the claimed elements. More specifically, claim 1 recites:

A wild animal control apparatus, comprising:  
an attractant configured to entice a target wild animal to consume the wild animal control apparatus;  
a trigger covered by a portion of the attractant, ***the trigger configured to dissolve in an environment having a predetermined pH***; and  
a subduing agent coupled to the trigger, the subduing agent configured to subdue the wild animal that consumes the wild animal control apparatus once fluids in the digestive system of the wild animal having the predetermined pH cause the trigger to dissolve, wherein the subduing agent is activated and the wild animal is subdued. ***(emphasis added)***

Applicant respectfully submits that claim 1, as amended, is allowable over the cited art for at least the reason that *Fajt* fails to disclose, teach, or suggest a “wild animal control apparatus, comprising... a trigger covered by a portion of the attractant, ***the trigger configured to dissolve in an environment having a predetermined pH***” as recited in claim 1, as

amended. More specifically, *Fajt* appears to disclose “Surfactants [that] are effect adsorption agents in that they break down the surface tension of membranes on the lining of the fish’s stomach and allow for greater penetration of the toxic rotenone” (column 3, line 45). *Fajt* appears to use “Surfactants” to dissolve stomach lining of the fish, but fails to disclose anything related to the dissolving of the “Surfactants.” As such, Applicant respectfully submits that this is different than “a trigger covered by a portion of the attractant, ***the trigger configured to dissolve in an environment having a predetermined pH***” as recited in claim 1, as amended. For at least this reason, claim 1, as amended, is allowable over the cited art.

**B. Claims 2 – 8 are Allowable Over *Fajt***

The Office Action indicates that claims 2 – 8, stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Number 5,674,518 (“*Fajt*”). Applicant respectfully traverses this rejection on the grounds that *Fajt* does not disclose, teach, or suggest all of the claimed elements. More specifically, dependent claims 2 – 8 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

**VII. New Claims 22 – 26 are Allowable**

Additionally, Applicant adds new claims 22 – 26. Applicant respectfully submits that new claims 22 – 26 are allowable for at least the reason that these claims depend from allowable independent claim 1. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

## CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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